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Attorneys for Plaintiff,
 AMERICAN HEALTHTECH, INC.

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

AMERICAN HEALTHTECH, INC.,

Plaintiff,

v.

THE HEALTH TECHNOLOGY CENTER, INC.,

Defendant.

CASE NO. C 06-06458 SBA

**STIPULATION AND ~~PROPOSED~~
 ORDER RESCHEDULING INITIAL
 CASE MANAGEMENT
 CONFERENCE AND RELATED
 DEADLINES**

Judge Sandra Brown Armstrong

Pursuant to Civil Local Rules 6-2, 7-12, and 16-2(e), Plaintiff American Healthtech, Inc. and Defendant The Health Technology Center, Inc. (collectively, "the Parties") submit this Stipulation requesting an Order Rescheduling the Initial Case Management Conference and Related Deadlines in the above captioned matter.

The Complaint in this matter was filed on October 16, 2006. The Order Setting Initial Case Management Conference and ADR Deadlines set the Initial Case Management Conference for January 23, 2007. (D.E. 2.) This case was reassigned, and a Case Management Scheduling Order for Reassigned Civil Cases reset the Initial Case Management Conference for January 24, 2007. (D.E. 7.)

Plaintiff filed a Motion, with consent of Defendant, requesting a continuance of the Initial Case Management Conference and Related Deadlines (D.E. 8, amended D.E. 11) which was

1 granted by the Court, and an Order was issued resetting the Initial Case Management Conference
2 for April 25, 2007. (D.E. 12.)

3 The Parties' settlement discussions are continuing, in an effort to resolve this matter
4 privately. Along with that settlement effort, the Parties have agreed to extend the time for
5 Defendant to Answer or otherwise respond to the Complaint until June 4, 2007.

6 The Parties later filed a Stipulation requesting an Order Continuing the Initial Case
7 Management Conference and Related Deadlines, requesting that the Initial Case Management
8 Conference be continued to June 25, 2007. (D.E. 17.) The parties received voicemail messages
9 from a law clerk in the Court's office with notification that the a continuance would be granted,
10 but that the Court holds Case Management Conferences on Wednesday and Thursday only, and
11 that he would set the Initial Case Management Conference for June 27, 2007. An Order to this
12 effect was entered April 2, 2007. (D.E. 20.)

13 Unfortunately, plaintiff's counsel is unavailable on June 27, 2007. According to
14 instruction received from the Court clerk's office, the parties submit this Stipulation and
15 proposed Order with alternative dates that the parties do have available, and respectfully request
16 the Court grant an Order setting the Initial Case Management Conference for either: June 20,
17 2007; June 21, 2007; July 5, 2007; July 11, 2007; or July 12, 2007. The Parties further request
18 that all related deadlines be reset based on the new initial Case Management Conference date.

19 The proposed revised case management schedule, per Civil Local Rule 16-2(d)(3), is:

20 21 days before Last day to:
21 CMC

- meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan
- file ADR Certification signed by Parties and Counsel (form available at www.adr.cand.uscourts.gov)
- file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference (forms available at www.adr.cand.uscourts.gov)

25 7 days before Last day to complete initial disclosures or state objection in
26 CMC Rule 26(f) Report, file Case Management Statement (form available at www.cand.uscourts.gov), and file Rule 26(f) Report

27 CMC Initial Case Management Conference (CMC)

1 DATED: April 6, 2007

Respectfully submitted,

2 EPSTEIN BECKER & GREEN, P.C.

3 By: 

4 Michael T. Horan
5 Jamie S. Platto

6 Attorneys for Plaintiff
7 AMERICAN HEALTHTECH, INC.

8 DATED: April 6, 2007

Respectfully submitted,

9 SONNENSCHEN NATH & ROSENTHAL LLP

10 By: 

Donald M. Carley

11 Attorneys for Defendant
12 THE HEALTH TECHNOLOGY CENTER, INC.

13 PURSUANT TO STIPULATION, IT IS SO ORDERED:

14 Good cause being shown, the Initial Case Management Conference ("CMC") is hereby
15 continued to ~~June 20, 2007; June 21, 2007; July 5, 2007; July 11, 2007; or July 12, 2007~~, at
16 3:15 p.m.. The CMC will be conducted by conference call pursuant to the Case Management
17 Scheduling Order dated October 27, 2006. The clerk is hereby directed to reset all related dates,
18 such that the last day to complete initial disclosures or state objections in the Rule 26(f) Report,
19 and to file the Case Management Statement is 7 days prior to the CMC; and the last day to meet
20 and confer, file the ADR Certification, and file either a Stipulation to ADR Process or a Notice
21 of Need for ADR Phone Conference is 21 days prior to the CMC.

22 DATED: 4/10/07

23 
24 The Honorable Sandra Brown Armstrong
25 United States District Judge

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. My business address is One California Street, 26th Floor, San Francisco, California 94111-5427.
3. I served copies of the following documents (specify the exact title of each document served):

STIPULATION AND [PROPOSED] ORDER CONTINUING INITIAL CASE MANAGEMENT CONFERENCE AND RELATED DEADLINES

4. I served the documents listed above in item 3 on the following persons at the addresses listed:

Martin P. Michael, Esq.
Sonnenschein Nath & Rosenthal LLP
1221 Avenue of the Americas
25th Floor
New York, NY 10020-1089

Donald M. Carley, Esq.
Sonnenschein Nath & Rosenthal LLP
525 Market Street, 26th Floor
San Francisco, CA 94105-2708

5. a. ☐ **By personal service.** I personally delivered the documents on the date shown below to the persons at the addresses listed above in item 4. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party delivery was made to the party or by leaving the documents at the party's residence between the hours of eight in the morning and six in the evening with some person not less than 18 years of age.

- b. ☒ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 4 and (*specify one*):

- (1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid on the date shown below, or
- (2) ☒ placed the envelope for collection and mailing on the date shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at San Francisco, California.

- c. ☐ **By overnight delivery.** I enclosed the documents on the date shown below in an envelope or package provided by an overnight delivery carrier and addressed to the person at the addresses in item 4. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

- 1 d. ☐ **By messenger service.** I served the documents on the date shown below by
 2 placing them in an envelope or package addressed to the person on the addresses
 3 listed in item 4 and providing them to a professional messenger service for service.
 (A declaration by the messenger must accompany this proof of service or be
 contained in the Declaration of Messenger below.)
- 4 e. ☐ **By fax transmission.** Based on an agreement of the parties to accept service by
 5 fax transmission, I faxed the documents on the date shown below to the fax
 6 numbers of the persons listed in item 4. No error was reported by the fax machine
 that I used. A copy of the fax transmission, which I printed out, is attached.
- 7 f. ☐ **By e-mail or electronic transmission.** Based on an agreement of the parties to
 8 accept service by e-mail or electronic transmission, I caused the documents to be
 sent on the date shown below to the e-mail addresses of the persons listed in item 4.
 9 I did not receive within a reasonable time after the transmission any electronic
 message or other indication that the transmission was unsuccessful.

10 6. I served the documents by the means described in item 5 on (date): April 6, 2007

11 I declare under penalty of perjury under the laws of the State of California that the foregoing is
 true and correct.

12 04/06/07

13 DATE

Adela Arevalo

(TYPE OR PRINT NAME)

14 
 (SIGNATURE OF DECLARANT)